

### **REMARKS**

Claims 1-40 are pending. In the response that was filed on April 12, 2007, claims 21-40 were submitted as new claims.

In the office action that was mailed July 5, 2007, claims 21-40 were considered as directed to an invention that is unrelated to the invention encompassed by claims 1-20. The Examiner said that since claims 21-40 are directed to an invention that is different from that claimed in claims 1-20, and since the applicant has already received an action on the merits of claims 1-20, the invention recited in claims 1-20 has been “constructively elected” for prosecution. Claims 21-40 were therefore withdrawn by the Examiner as being directed to a non-elected invention. Since the Examiner has withdrawn claims 21-40, the applicant has therefore cancelled claims 21-40 without prejudice.

Claims 1-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. pre-grant publication 2003/0186695 to Bridges et al. in view of U.S. pre-grant publication 2002/0023227 to Sheymov et al. The office action made the claim rejections final. This amendment is therefore being submitted with a Request for Continued Examination under 37 C.F.R. §1.114.

In the office action, the Examiner contends that *Bridges* discloses all of the limitations of claims 1 and 15, except for the limitations of those claims that require the network portion capabilities to be updateable, “responsive to access attempts made by the mobile node to access the network portions.” The Examiner therefore admitted that *Bridges* does not disclose all of the limitations of pending claims 1 and 15.

In order for the Examiner to be able to reject claims 1 and 15 for being obvious, the Examiner cited *Sheymov* as being in an “analogous art.” The Examiner then alleged that *Sheymov* discloses the limitation of claims 1 and 15, admitted by the Examiner to be missing from *Bridges*, namely the limitations of claims 1 and 15 that require the listing stored in the

storage element to be, “updateable responsive to access attempts made by the mobile node to access... network portions.” (Emphasis added.)

In response to the claim rejections, *Sheymov* has been carefully studied and the claims have been amended such that the amended claims avoid the combination of *Bridges* and *Sheymov* and are now in condition for allowance. The applicant nevertheless contends that *Sheymov* is not “analogous art.” It was therefore improper for the Examiner to combine the teachings of *Sheymov* with *Bridges*.

Merriam-Webster’s 11<sup>th</sup> Collegiate Dictionary, defines analogous to mean, “showing an analogy or a likeness that permits one to draw an analogy.” Analogy is defined to mean, “an inference that if two or more things agree with one another in some respects, they will probably agree in others.” *Sheymov* is thus “analogous” to *Bridges* if *Sheymov* is so similar to *Bridges* in at least one respect that *Sheymov* is likely to be similar to *Bridges* in at least one other respect.

*Sheymov* discloses and claims a network security system. *Sheymov* provides a method for detecting and detering network intrusion. In paragraph [0032], *Sheymov* lists the networks to which the security system is directed. Those networks include LANs, WANS, intranets, and the Internet.

*Bridges* discloses a method and apparatus that actually facilitates the “intrusion” of roaming mobiles into a roaming network. On at least one level, therefore, the purposes behind the inventions of *Bridges* and *Sheymov* are diametrically opposed to each other.

In addition to having distinctly different purposes, the inventions disclosed in each reference are distinctly different. The only wireless connection disclosed in *Sheymov* is a wireless link 5 between the networks 10. There is no wireless end-user communications devices in *Sheymov* as there is in *Bridges*.

There are no similarities between *Sheymov* and *Bridges*. They are not analogous. It was improper for the Examiner to have combined them.

Assuming, *arguendo*, that the two references are analogous, claims 1 and 15 have been carefully amended as set forth above to distinguish the claimed subject matter from *Sheymov*. Claims 1 and 15 have been amended to recite that the list stored in claimed network storage element is updateable in response to attempts to access packet data connectivity of a network. The claims have also been amended to recite that the mobile node is authorized to attempt to access a network's packet data connectivity.

Support for the amendment to claims 1 and 15 can be found in paragraph [0024], among others. No new matter has been added.

Referring now to *Sheymov* lines 1-15 of paragraph [0012], which was cited by the Examiner as ostensibly teaching that network capabilities are "updateable responsive to access attempts made by the mobile node," *Sheymov* states:

"[When a] target station [has] confirmed an unauthorized access attempt, [the target station] can include a flag concealed in [the target station's] response to the hacker. Then, participating nodes and conduit hosts throughout the distributed network will be supplied and updated with information relating to the unauthorized access attempt so that participating nodes and conduit hosts can detect passage of the flag...."

(Emphasis added.)

*Sheymov* thus states that only unauthorized attempts to access a network are detected. Contrary to what *Sheymov* discloses, amended claims 1 and 15 now recite that a mobile node is authorized to attempt to access a network's packet data connectivity. In other words, *Sheymov* cannot satisfy limitations of claims 1 and 15 which were previously admitted by the Examiner to be missing from *Bridges*, namely updating a list based on a mobile device's attempts to access packet data connectivity a network portion.

Perhaps even more importantly, the passage of *Sheymov* relied on by the Examiner plainly states that the "participating nodes" are "updated" with a "flag" that is "concealed" in a response to the hacker. The "updating" that *Sheymov* teaches is of a "flag" that is transmitted by

the “target station.” Amended claims 1 and 15 on the other hand recite that the mobile node itself updates its own list based on its success or failure in accessing packet data connectivity.

It was improper for the Examiner to have combined *Bridges* with *Sheymov* because they are not analogous. Even if they are analogous, the limitations added to claims 1 and 15 by this amendment make claims 1 and 15 avoid the combination of *Bridges* and *Sheymov*.

Since claims 1 and 15 avoid the combination of *Bridges* and *Sheymov*, the dependent claims also avoid the combination of *Bridges* and *Sheymov*. Reconsideration of claims 1-20 is therefore respectfully requested.

Respectfully submitted,

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